

DEC 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RAFAEL RAMIREZ SALAZAR,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-71327

Agency No. A95-305-152

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 20, 2007^{**}

Before: GOODWIN, WALLACE, and HAWKINS, Circuit Judges.

Rafael Ramirez Salazar petitions for review of an order of the Board of
Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings.

To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We review

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

for abuse of discretion the denial of a motion to reopen, *see Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we dismiss in part and deny in part the petition for review.

The evidence Ramirez Salazar presented with his motion to reopen concerned the same hardship grounds as his application for cancellation of removal. *See Fernandez v. Gonzales*, 439 F.3d 592, 602-03 (9th Cir. 2006). We therefore lack jurisdiction to review the BIA's discretionary determination that the evidence would not alter its prior discretionary determination that he failed to establish the requisite hardship. *See id.* at 600 (holding that 8 U.S.C. § 1252(a)(2)(B)(i) bars this court from reviewing the denial of a motion to reopen "where the question presented is essentially the same discretionary [hardship] issue originally decided.").

In his opening brief, Ramirez Salazar does not challenge the BIA's determination that his motion was untimely to the extent it sought reconsideration. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (holding issues which are not specifically raised and argued in a party's opening brief are waived).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.